

1979 PORNOGRAPHIC CONTROL ORDINANCE

**TOWNSHIP OF BAINBRIDGE
BERRIEN COUNTY, MICHIGAN**

**Ordinance
No. 19
No. 16**

Adopted: February 5, 1979

An Ordinance to protect and secure the public health, safety and general welfare by the regulation of the public display of pictorial, printed or manufactured offensive pornographic material within the Township of Bainbridge; to provide penalties for the violation of the provisions of this Ordinance, and to repeal any Ordinances or parts of Ordinances in conflict herewith.

THE TOWNSHIP OF BAINBRIDGE ORDAINS:

SECTION I

Title

This Ordinance shall be known and cited as the Bainbridge Township Pornographic Material Control Ordinance.

SECTION II

Regulations

It shall be unlawful for any person acting in a managerial capacity or being the owner, proprietor, operator, or manager of a business to knowingly place pornographic offensive materials upon public display, for purposes of sale, entertainment, or distribution, or fail to take prompt action to remove such a display from property in his control after learning of its existence. The prohibition of this section shall not apply to broadcasts or telecasts through facilities licensed under the Federal Communications Act.

SECTION III

Definitions

For purposes of this Ordinance:

- (A) "Pornographic material" means any picture, photograph, drawing, sculpture, motion picture, film, model, devise, or other visual representation or image depicting uncovered, or less than opaquely covered, post pubertal human genitals or pubic areas in a lewd fashion, or depicting human sexual intercourse, human or animal masturbation,

bestiality, oral intercourse, anal intercourse, human-animal intercourse, excretory functions, homosexual acts, direct physical stimulation or touching of unclothed genitals or pubic areas of the human male or female, flagellation or torture by or upon a person who is nude or clad in revealing or bizarre costumes in the context of a sexual relationship or sexual stimulation. The material shall be judged without regard to any covering which may be affixed or printed over the material in order to obscure genital areas in a depiction otherwise falling within the definition of these subsections. Works of art or of anthropological significance are not included within the definition of this paragraph.

- (B) "Offensive" means that the work in which the representations appear, taken as a whole by the average person, applying contemporary community standards, appeals to the prurient interest and depicts or portrays the prohibited pornographic material in a patently offensive way, and which lacks serious literary artistic, political, or scientific value.
- (C) "Public display", in the context of films or motion pictures, means the projection of said films or motion pictures on any viewing screen inside or outside a building or theatre. In the context of photographs, drawings, sculptures or other visual representations or printed material, "public display" shall mean the placing of materials within the definition of subparagraph "A and "B" on or in a newsstand, display rack, window, showcase, display case or similar place so that said material is easily visible from a public thoroughfare, from the property of others, from a common walk or mall, or from that portion of the interior of places of business generally open to persons under the age of majority while such material is displayed.

SECTION IV

Penalties

Every person, who violates or refuses to comply with any section of this Ordinance shall be guilty of a misdemeanor. Upon conviction thereof, he shall be punishable by a fine or not to exceed One Hundred Dollars (\$100.00), or by imprisonment for not to exceed ninety (90) days, or both. Each day during which a violation continues shall be deemed a separate offense. In addition to the criminal sanctions herein provided, the Township may institute injunctive proceedings, or other appropriate civil proceedings to prevent, enjoin, abate or remove any violation of this Ordinance.

SECTION V

Saving Clause

The provisions of this Ordinance are hereby declared to be separable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

SECTION VI

Effective Date

This Ordinance shall take effect on March 17, 1979.

SECTION VII

Repeal

All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance are hereby repealed.

I hereby certify that the foregoing is a true and correct copy of the "Pornographic Material Control Ordinance" for Bainbridge Township, Berrien County, Michigan, duly adopted on the 5th day of February, 1979.

Beverly Koroch
Bainbridge Township Clerk

A motion that said "Pornographic Material Control Ordinance" be enacted was made by James J. Lull, and supported by Beverly Koroch, at a regular meeting of the Bainbridge Township Board on the 5th day of February, 1979.

The names of the Township Board Members and their votes are as follows:

NAME	YES	NO
James L. Lull	X	
Beverly Koroch	X	
L. C. Smith, Jr.	X	
Robert Spies, Absent		
Donald Baiers, Absent		

I hereby certify that the foregoing Ordinance was published in the Watervliet Record, Watervliet, Michigan, on the 15th day of February, 1979.

Beverly Koroch
Bainbridge Township Clerk